

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
SOUTHWESTERN BELL COMMUNICATIONS)
SERVICES INC., dba SBC LONG DISTANCE)
For a Certificate of Authority to)
Provide Competitive Local Exchange)
Services in the State of Hawaii.)
_____)

DOCKET NO. 03-0416

DECISION AND ORDER NO. 20894

Filed April 8, 2004
At 2:30 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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STATE OF HAWAII

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

OF THE STATE OF HAWAII

SOUTHWESTERN BELL COMMUNICATIONS)
SERVICES INC., dba SBC LONG DISTANCE)

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Services in the State of Hawaii.)
)

DECISION AND ORDER

I.

Introduction

SOUTHWESTERN BELL COMMUNICATIONS SERVICES INC., dba SBC LONG DISTANCE ("Applicant") is an authorized reseller of intrastate telecommunications services in the State of Hawaii (the "State"), pursuant to a commission-issued certificate of authority ("COA").¹

Applicant requests a COA to provide intrastate telecommunications services in the State as a facilities-based carrier and reseller.² Applicant makes its request pursuant to Hawaii Administrative Rules ("HAR") chapters 6-61 and 6-80. As indicated above, since Applicant already holds a COA to provide intrastate telecommunications services in the State on a

¹See, Decision and Order No. 15728, filed on July 28, 1997, in Docket No. 97-0212. On May 15, 2000, Applicant received approval from the Department of Commerce and Consumer Affairs, Business Registration Division, to use the trade name SBC Long Distance (fka, Southwestern Bell Long Distance).

²Applicant's application, filed on December 12, 2003.

resold basis, we will treat the instant application as Applicant's request to amend its COA to also include the authority to provide facilities-based telecommunications services in the State.

The DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), was served copies of the application. The Consumer Advocate does not object to approval of the application, subject to certain qualifications.³

II.

Description of Applicant

Applicant is a privately held Delaware corporation authorized to do business in the State as a foreign corporation. It is a wholly-owned subsidiary of SBC Communications Inc. and its principal place of business is in Pleasanton, California.

Currently, as a telecommunications reseller in the State, Applicant seeks to expand its authority to include the provision of facilities-based services in the State. Specifically, it intends to offer competitive local exchange services including, without limitation, basic local service and custom calling features to business and residential customers. Applicant will initially provide local exchange services

³Consumer Advocate's Statement of Position ("SOP"), filed on March 11, 2004. In its SOP, the Consumer Advocate's qualifications relate to certain provisions of Applicant's proposed tariff. Accordingly, the Consumer Advocate recommends two (2) revisions to Applicant's proposed tariff.

utilizing the incumbent local exchange carrier's unbundled network element platform (aka, UNE-P).

III.

COA and Tariff Matters

Upon review of the application, the commission makes the following findings pursuant to HAR § 6-80-18(a):

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services;

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

3. Applicant's proposed telecommunications services are in the public interest.

Accordingly, the commission concludes that Applicant should be granted an amended COA to operate as both a facilities-based carrier and reseller of intrastate telecommunications services in the State.

However, based on the commission's review of Applicant's proposed tariff (aka, proposed Tariff No. 6)⁴, the commission agrees with the Consumer Advocate's concerns and

⁴In its SOP, the Consumer Advocate appears to treat Applicant's proposed Tariff No. 6 as a proposed tariff that would replace Applicant's Tariff No. 5. However, on March 19, 2004, Applicant clarified by letter that it requests that Tariff No. 5 remain in effect and the commission treat Applicant's proposed Tariff No. 6 as a separate tariff.

recommended revisions, in part.⁵ The commission also has its own concerns and recommended revisions. Accordingly, we conclude that Applicant's proposed tariff should be revised as follows:

1. Section 2.2.1.F. (Original Page 16) should be amended to clarify that disconnection of services cannot result for non-payment of charges in dispute consistent with HAR § 6-80-106.
2. Section 2.2.6. (Original Page 20) should be amended to be consistent with the requirements set forth in HAR § 6-80-102(d) relating to overbilling a customer.
3. Section 2.6.4.A. (Original Page 38) should be amended to also include the following language:
"An estimate of monthly billings may be used for the purpose of determining a deposit if it can be shown that the customer's usage may be substantially different from the average usage for the same class of service."
HAR § 6-80-105(a).
4. Section 2.6.4.B. (Original Page 39) should be amended to be consistent with Section 2.6.4.A. and HAR § 6-80-105.

⁵In particular, we will decline to adopt the Consumer Advocate's recommendation relating to Section 2.6.2 (Original Page 27) because the Consumer Advocate did not sufficiently explain why the Applicant must indicate its willingness to comply with the Fair Credit Reporting Act in Applicant's proposed tariff.

5. Section 2.8.4. (Original Page 43) should be amended to delete the following sentence:
"The complaint must be filed within five (5) days of the Customer's notification of the Company's determination of the dispute."
6. Section 2.14. (Original Pages 53 to 54) should be amended to be consistent with HAR § 6-80-103.

IV.

THE COMMISSION ORDERS:

1. Applicant's COA is amended to allow it to operate as a facilities-based carrier and reseller of intrastate telecommunications services in the State.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR chapters 6-80 and 6-81, any other applicable State law and commission rules, and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.


4. Applicant shall conform its new tariff to the applicable provisions of HAR chapter 6-80. An original and eight (8) copies of the new tariff shall be filed with the commission, and two (2) additional copies shall be served on the

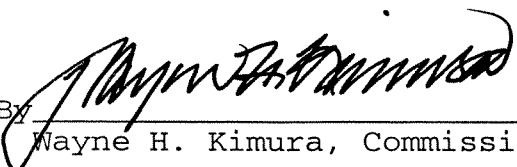
Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.

5. Applicant shall promptly comply with the requirements set forth above. Failure to promptly comply with these requirements may constitute cause to void this decision and order, and may result in further regulatory action, as authorized by law.

DONE at Honolulu, Hawaii this 8th day of April, 2004.

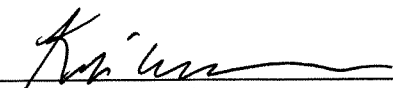
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kris N. Nakagawa
Commission Counsel

03-0416.ah

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20894 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: April 8, 2004